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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/062,302 | 02/01/2002 | Jason Annes | 1247 P 185 | 2560 |
| 7590 | 08/25/2004 | | EXAMINER | |
| WALLENSTEIN & WAGNER, LTD. | | | STRIMBU, GREGORY J | |
| 53rd Floor 311 South Wacker Drive Chicago, IL 60606-6630 | | | ART UNIT | PAPER NUMBER |
| | | | 3634 | |

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------|--------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/062,302 | ANNES ET AL. |
| | Examiner | Art Unit |
| | Gregory J. Strimbu | 3634 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 February 2004 and 01 June 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 29-35 is/are withdrawn from consideration.
- 5) Claim(s) 28 and 36 is/are allowed.
- 6) Claim(s) 1-27 and 37 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

Election/Restrictions

Applicant's election without traverse of Invention Group I and Species Group I in Paper No. 8 is acknowledged. Accordingly, claims 29-35 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention or species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-27 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt et al. '783. Schmidt et al. '783 discloses a brake assembly for locking a slidable sash window 16 within a track 18 of a frame 12, the track having a pair of spaced apart, opposed sidewalls (not numbered, but shown in figure 8), the assembly comprising a sliding body 24 adapted for slidable motion within the track, the slider body having a central opening 30 extending from a front face (not numbered, but seen in figure 2) to a rear face (not numbered, but seen in figure 2) of the slider body and having a side opening 27 adjacent to the central opening, a brake member 34 comprising a spring having a tip (not numbered, but comprising the distal end portion of the spring) at a distal end, the spring further having a braking surface (not numbered,

but comprising the surface of one of the serrations 35) adjacent the tip, the brake member mounted within the slide body such that the braking surface is adapted for reciprocal lateral movement through the side opening, a cam 31 positioned in the central opening, wherein the slide body receives and retains the brake member and the cam is rotatably in the central opening for laterally biasing the braking surface for movement through the side opening wherein the braking surface is adapted to frictionally engage one of the opposed side walls, a second brake surface (not numbered, but comprising the surface of one of the supporting the serrations 35) and a second side opening 27 (claim 2), the spring 34 comprising a first segment (not numbered, but comprising the portion of the spring extending upwardly from the lowermost curve) and a second segment (not numbered, but comprising the lowermost curve) (claim 3), the braking surface includes 3 pair of serrations shown in figure 9 wherein the first pair comprises the upper most serrations, a plurality of retaining tabs (not numbered, but comprising the flat portions extending upwardly from the central opening 30 as shown in figure 2) (claims 9, 11 and 12), a lateral cross member (not numbered, but shown in figure 2) and a base portion (not numbered, but comprising the generally horizontal portion of the spring joining both sides of the spring together (claim 10), the cam has a nipple 38 (claim 13).

Claims 28 and 36 are allowed.

Response to Arguments

Applicant's arguments filed February 13, 2004 have been fully considered but they are not persuasive.

With respect to the applicant's comments concerning Schmidt et al., the examiner respectfully disagrees. Schmidt et al. discloses a two braking surfaces each on opposite distal ends of the brake member 34. Each of the surfaces comprising the surface of one of the three teeth. The brake member 34 clearly has a tip at a distal end since the brake member has two generally horizontal portions each having a distal end. Additionally, the segments of the brake member 34 are clearly curved. If they were not curved, the brake element 34 would lie in one horizontal plane rather than being generally vertically disposed. The applicant's comments concerning claim 9 are not persuasive because the retaining tabs comprise part of the structure comprising the sliding body 24. Therefore, the retaining tabs are capable of supporting the brake element 34 via the other components of the sliding body. The same reasoning applies to the applicant's comments concerning claim 11.

It is suggested that the applicant amend the claims to recite at least one serration on curved or rectilinear surface to better define the invention and possibly define the invention over the prior art of record.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory J. Strimbu
Primary Examiner
Art Unit 3634
August 20, 2004